

EXHIBIT "C"

1 A. With the company?

2 Q. Any company?

3 A. Yeah.

4 Q. Compared to those other skiffs that you
5 operated, was this skiff in better condition, the
6 same condition, or in worse condition than other
7 skiffs that you operated prior to the Cashman job in
8 2001?

9 A. It was medium.

10 Q. Somewhere in between?

11 A. Yeah.

12 Q. Did Cashman supply this skiff?

13 A. Yes.

14 Q. You said that you were always tinkering
15 with it. Can you give me a general idea of what type
16 of tinkering was done to the skiff or the motor on
17 the skiff, let's say, let's take it in the first
18 month or so of the job?

19 A. The motor seemed to run okay up until that
20 point, but it had sunk a week before Steve's
21 accident.

22 Q. Okay, well, let's stop there since you've
23 kind of given us a point of reference. Prior to the
24 motor sinking, and this again was prior to Ramsey's

1 accident, what type of tinkering, if any, did you
2 have to do with the skiff or the motor?

3 A. Just the wiring to the bilge pump and
4 maybe the navigational lights on it, minor electric
5 problems, you know, but nothing regarding the motor.

6 Q. Did these minor electric problems require
7 repair?

8 A. Just by myself a splice on the wire or
9 something, run new wires.

10 Q. Did you have any training in making that
11 type of repair?

12 A. Yes.

13 Q. What type of training did you have?

14 A. Like I said, I'm a licensed captain, and
15 I've been working around equipment for over 20 years,
16 and I'm familiar with wiring and mechanical work.

17 Q. Had you ever made those types of repairs
18 prior to making them on this skiff?

19 A. Yes.

20 Q. On how many occasions?

21 A. Numerous.

22 Q. Did any of those repairs or those problems
23 require you or anyone at Jay Cashman to actually take
24 it out of the water and have it serviced somewhere

1 else?

2 A. Not those repairs, no.

3 Q. Now we're going get to what you referred
4 to before. You said that the boat sunk sometime
5 prior to Mr. Ramsey's injury; correct?

6 A. Yes.

7 Q. Can you describe for me the circumstances
8 of the -- well, when you say "sunk," are you talking
9 about the skiff sinking, the engine sinking, or both?

10 A. Well, we would go home on the weekends,
11 and when we came back Monday morning, at this
12 particular time, the skiff was submerged at the dock.
13 It had been raining all weekend and the pump didn't
14 work inside the boat, the bilge pump.

15 Q. What is the purpose of the bilge pump?

16 A. To keep the water from building up inside
17 the skiff. So the motor was half submerged in the
18 water. It wasn't completely sunk but it needed to be
19 hauled out and looked at.

20 Q. Let me back up for a second. I do have
21 some more questions about that but let me just back
22 up. You said that you guys would go home on the
23 weekends; correct?

24 A. Yes.

1 Q. How long into the job were you prior to
2 seeing that the skiff sank on the time that you're
3 talking about?

4 A. I'd say a couple months.

5 Q. And you had gone home every weekend before
6 that?

7 A. Yes.

8 Q. When you did go home on the weekends,
9 prior to the skiff sinking, what did you do with the
10 skiff?

11 A. Tie it up at a safe dock inside a cove
12 that was protected from the weather.

13 Q. Would it be still in the water or out of
14 the water?

15 A. In the water.

16 Q. Did you ever in those two months or so,
17 those few months or so, did you ever take the skiff
18 out of the water with a crane and put it on the
19 dredge?

20 A. Yes, we have a couple times.

21 Q. That would be completely taken out of the
22 water and removing all of the elements of the water
23 from possibly damaging the skiff; correct?

24 A. Yes.

1 Q. Other than putting it on the dredge or
2 putting it in a cove, had you ever done anything else
3 with the skiff on the weekends that you guys didn't
4 work on the job, again, prior to the boat sinking the
5 first time?

6 A. No.

7 Q. Where was the skiff this particular
8 weekend when it sank?

9 A. At the dock in the cove.

10 Q. Was there any particular reason why the
11 skiff wasn't taken out of the water and put on the
12 dredge that weekend?

13 A. Only that we expected it to be okay.

14 Q. When you made decisions in the past, those
15 two months or so, to take the skiff out of the water
16 and put it on the dredge, was there any particular
17 reason why you did it on those occasions?

18 A. Because we had prior warning of gale force
19 winds or something of this nature that we knew the
20 skiff could be damaged if we didn't take it out of
21 the water.

22 Q. Was it difficult in any way to take the
23 skiff out of the water and put it on the dredge?

24 A. Not too difficult, no.

1 Q. Did you put the skiff in the same cove
2 when you did leave it in the water?

3 A. Yes.

4 Q. Where was the cove in relation to the
5 dredge?

6 A. A quarter of a mile up the river.

7 Q. So when you returned this particular
8 weekend, when you returned to start the job again --
9 I guess it would have been on a Monday?

10 A. Yeah.

11 Q. You saw that the skiff had sunk; correct?

12 A. Yes.

13 Q. And that the engine was, you said,
14 partially submerged?

15 A. Partially submerged.

16 Q. And did you somehow then get the skiff and
17 the engine out of the water after you saw that?

18 A. Then we -- there was a local marina there
19 that helped us get it out of the water, and they
20 actually serviced the engine at that time.

21 Q. Did you make a determination that the
22 engine -- first of all, when you got it out of the
23 water, did you try to make a determination as to
24 whether the engine would start?

1 A. Well, you could tell it was submerged
2 enough that it had probably damaged the starter and
3 electronics on it that it needed to be looked at.

4 Q. Whose decision was it to take it to the
5 marina?

6 A. Myself and Alex Dick.

7 Q. You told me earlier that you worked as the
8 superintendent and you had crew members under you;
9 correct?

10 A. Yes.

11 Q. Were there any other Cashman employees
12 that were on the job between the time the job started
13 and the time the boat sank the first time?

14 A. Yes.

15 Q. So it was yourself. Was Mr. Dick there
16 all of the time also?

17 A. Yes.

18 Q. Anyone else?

19 A. Yeah. I can't think of his name offhand.

20 Q. How about a guy named Nick?

21 A. Yeah, Nick Wagner.

22 Q. And, first of all, starting with Mr. Dick,
23 what was his job title?

24 A. Nick Wagner?

1 Q. No.

2 A. Alex Dick.

3 Q. Yeah.

4 A. He was a project manager.

5 Q. I'm sorry, you did tell me that before.

6 Nick Wagner, what was his job title?

7 A. He was another superintendent.

8 Q. You indicated that you had made, I think
9 it was you and Mr. Dick, made the decision to have
10 that engine serviced at a local marina; correct?

11 A. Yes.

12 Q. Can you remember the name of the marina?

13 A. I don't.

14 Q. Okay. Hochstrasser's Marina, does that
15 sound familiar?

16 A. It could be. I couldn't tell you.

17 Q. I don't want you to guess.

18 A. I'm not.

19 Q. Were you personally involved in
20 transporting the engine to the marina?

21 A. No.

22 Q. Who did that?

23 A. I couldn't tell you. It was either Nick
24 or Alex.

1 Q. Did you have any conversation with either
2 Nick or Alex about repairing the engine?

3 A. Only to make sure it's running right. We
4 can't fool around in this current with something
5 that's going to break down.

6 Q. Why do you say that? You made reference
7 to the current in the conversation we had off the
8 record.

9 A. Because the current is one of the worst on
10 the East Coast and you just can't have a vessel
11 that's running -- everything has to be running up to
12 snuff or it's not safe.

13 Q. Including the engine; correct?

14 A. The engine especially.

15 Q. So based on your experience and based on
16 your observations of the current, did you conclude
17 that it was important to make sure that there was
18 nothing wrong with that engine when it ran the skiff
19 in the water?

20 A. Yes.

21 Q. At some point in time, did you get the
22 engine back?

23 A. Yes.

24 Q. Did you have any conversations with anyone

1 at Jay Cashman, either Alex or Nick or anyone else,
2 about the engine between the time that the engine
3 left to go to the marina and the time that it came
4 back?

5 A. About the engine?

6 Q. Yes.

7 A. We only had it back maybe a day or two and
8 it wasn't running as well as it used to. That was
9 obvious.

10 Q. Let me back up for a second. Did you
11 receive any information before the engine came back
12 from the marina as to the condition of the engine?

13 A. No.

14 Q. When you got it back, did you receive any
15 information as to the condition of the engine
16 compared to the condition of the engine prior to the
17 boat sinking?

18 A. Only that they did fix it and it should be
19 okay.

20 Q. Who told you that?

21 A. Alex Dick.

22 Q. Was there any mention from either Alex or
23 Nick that there were recommended repairs to the
24 engine that were not done?

1 A. Not to my knowledge.

2 Q. I assume that at some point when you got
3 the engine back you tried to run it on the skiff;
4 correct?

5 A. Yes.

6 Q. And you indicated earlier that it wasn't
7 running the way that it ran prior to the boat
8 sinking. Can you be more specific?

9 A. That it would stall. It would stall out
10 unless you -- if you brought it to an idle, you'd
11 have to rev it up and keep it going.

12 Q. Take us through the process of you're
13 getting to the skiff and you're getting the engine
14 running to go from point A to point B. Tell me what
15 you do to make that engine run and to make the skiff
16 travel?

17 A. You shift it forward to go forward and
18 give it more gas to go.

19 Q. Take me from the step when you actually
20 stepped into the skiff. Tell me exactly what you do.

21 A. You get in the skiff, turn the key, choke
22 the motor, warm it up, and then you're ready to go.
23 You shift forward and throttle up, and it would be
24 all right. But in neutral it was not running

1 smoothly, you know, but when you gave it gas it was
2 okay.

3 Q. You're talking about this is the condition
4 of the engine after you got it back from the marina?

5 A. Yes.

6 Q. And how did that differ from the condition
7 of the engine before you got it sank?

8 A. Before it sank it seemed to run fine.

9 Q. When you said that it stalled out, did you
10 have a problem with it stalling out before it sank?

11 A. No.

12 Q. Do you recall on how many occasions prior
13 to the date of Mr. Ramsey's accident, even including
14 the date of Mr. Ramsey's accident before he operated
15 it, that it stalled on you?

16 MR. MURPHY: I'm sorry, I just missed
17 that. Can you read that back?

18 (Last question read back by the reporter.)

19 A. I think only a day or two that we, myself
20 in particular, noticed that it wasn't running as
21 smooth as it was before.

22 Q. Based on that observation did you let
23 anybody at Cashman know about any problems with the
24 stalling out of the engine?

1 A. Yeah, we were all pretty -- you know, they
2 saw me having problems with it.

3 Q. Who is they?

4 A. Everybody on the dredge. Everybody would
5 watch you leave and arrive on the skiff to make sure,
6 you know, to help you with lines tying up to it and
7 stuff.

8 Q. Would that include Mr. Dick and
9 Mr. Wagner?

10 A. I couldn't say for that. Most of the time
11 they were on shore. And myself, I spent my time out
12 on the dredge itself.

13 Q. Did you make anyone at Jay Cashman,
14 including either Mr. Dick or Mr. Wagner, aware of the
15 stalling out problems on the engine?

16 A. I had talked to Alex Dick about that the
17 engine wasn't running as good as it did before.

18 Q. Do you recall what Mr. Dick's response, if
19 any, was to your comment?

20 A. I believe he said, well, see if we can
21 change the spark plugs or do something, and if that
22 doesn't work, we'll have to get it serviced again.

23 Q. Did he request either you or any member of
24 the crew or anyone else to attempt any repairs on the

1 engine between the time you got it back and the time
2 that Mr. Ramsey's accident occurred?

3 A. It wasn't point blank to make repairs. It
4 was just a suggestion, you know, do you think if you
5 change the spark plugs it would get better? Because
6 that was something that we would do on a normal thing
7 anyways.

8 Q. Do you know if anyone, including yourself,
9 attempted any repair on the engine between the time
10 you got it back from the marina and the time that
11 Mr. Ramsey's incident occurred?

12 A. Not electronically, no.

13 Q. Well, my question, first of all, was any
14 repairs at all?

15 A. Only trying to keep it from stalling out,
16 adjusting the linkage on the shifting on the --

17 Q. Did you do that personally?

18 A. I did, yeah.

19 Q. Did that help?

20 A. It made it better.

21 Q. Did it completely resolve the stalling out
22 problem?

23 A. No.

24 Q. Did you, in turn, even after those

1 attempted repairs, let either Mr. Dick or Mr. Wagner
2 or anyone else from Jay Cashman know that there were
3 still stalling out problems with the engine? Again,
4 this would be between the time you got it back from
5 the marina and prior to Mr. Ramsey's incident.

6 A. I don't think it was mentioned again.
7 Again, the skiff wasn't a primary source of
8 transportation, and so it wasn't on the top priority
9 list to have it looked after right away.

10 Q. When you say "top priority list," whose
11 priority list was that? Was that yours? someone
12 else's? combination of both?

13 A. A combination of both.

14 Q. But the skiff was used on a daily basis,
15 correct, prior to Mr. Ramsey's accident?

16 A. Yes, but it wasn't totally necessary, you
17 know, as if the skiff wasn't working, then we could
18 resort to using that tug gunney, which we used
19 regularly anyways for crew changes.

20 Q. But speaking of safety, would you agree or
21 disagree with me that it's safer to have the tug boat
22 next to the dredge, in case something happens, than
23 to have the tug boat being used for other purposes?

24 A. The tug boat was a combination usage. For

1 heavy equipment that we might need to get from shore
2 or fuel to bring out to the dredge, or to set the
3 anchors, but it also -- we didn't want to use it --
4 well, it also -- crew changed too.

5 Q. Let me just -- I want to jump ahead and
6 then jump back to try to clarify this point. The day
7 of the accident Mr. Ramsey has testified that he took
8 the skiff in part to go pick up some bolts, I think
9 from shore, and then take them back. Is that your
10 understanding also?

11 A. Yes.

12 Q. Would that type of task, errand, let's
13 say, would that be something that you would use the
14 skiff for as opposed to the tug boat?

15 A. Yes, it would be easier to use the skiff.

16 Q. Okay. I'm going to direct your attention
17 now to the date of the accident, which was April 5th
18 of 2001. What time was starting time that day?

19 A. Seven a.m.

20 Q. Do you recall what the weather conditions
21 were?

22 A. It was actually a sunny day.

23 Q. Do you recall what the current conditions
24 were when you started at 7 a.m.?

1 A. At start I couldn't recall exactly. I
2 think it was -- the current was running pretty hard.

3 Q. Is there any type of documentation you had
4 to fill out when you start the job that day as to
5 weather and/or current conditions?

6 A. No, because it was always the same. It
7 was always running hard except for slack tide.

8 Q. Well, the fact that it was running the
9 same, would that -- did you feel as though -- strike
10 that.

11 Was it company policy to keep that
12 kind of record at the beginning of the day?

13 A. No.

14 Q. Would you on your own, either in this job
15 or any other job, would you keep that kind of record?

16 A. No.

17 Q. What was the crew's job that day; do you
18 recall?

19 A. Just preparing for slack tide. I believe
20 that we were going to be setting some rock mats that
21 day. Steve was getting bolts.

22 Q. Can I stop you there?

23 A. I'm not sure but I think they were for the
24 clam bucket on the crane.

1 Q. I was going to ask you about that, but let
2 me try clarify some of the terms that you raised,
3 because we're speaking necessarily to a jury who may
4 not know. Slack tide, what does that mean?

5 A. When the tide is not moving. The tide is
6 either coming in or going out. And slack tide is
7 when it's in between the two, when it's not moving.

8 Q. And you indicated that you were -- the job
9 that you were doing that day was what again?

10 A. Setting rock mats under water.

11 Q. Can you explain to the jury what that
12 means?

13 A. Those are -- they're rocks inside a nylon
14 mesh mat that are laid on the ocean bottom to retard
15 the sand from eroding around the lighthouse that we
16 were working on.

17 Q. And that was the purpose of the job in the
18 first place; correct?

19 A. To stop the erosion.

20 Q. Did you or anyone else operate the skiff
21 between the time that the day started for you guys
22 and the time that Ramsey went to get the bolts?

23 A. I had ran it in the morning, first thing.

24 Q. Did you just run it to run it, or did you

1 run it to go from point A to point B?

2 A. That's how I came. I would always bring
3 the skiff out to the dredge.

4 Q. From the cove?

5 A. From the cove, yes.

6 Q. Was that the only time the skiff was used
7 before Ramsey used it that day?

8 A. Yes, I was the only one that used it
9 before him.

10 Q. Did you use it just for that trip from the
11 cove to the dredge, or did you use it for any other
12 trips?

13 A. I think I made one other trip into shore
14 and back, and, matter of fact, it was running okay.
15 It wasn't a hundred percent, but I told Steve to be
16 careful.

17 Q. Let me go back for a second. When you
18 said that it wasn't running a hundred percent, are
19 you referring to your use of the skiff prior to
20 Steve's use of the skiff on the day of the accident?

21 A. Yes.

22 Q. Now, what do you mean that it wasn't
23 running a hundred percent?

24 A. That, well, we all knew that it had sunk a

1 few weeks prior to that and it still wasn't running
2 that great.

3 Q. You had said that there was a problem and,
4 correct me if I'm wrong, the problem that you
5 described with the engine after you got it back from
6 the marina had something to do with you putting it in
7 neutral?

8 A. No. When you would put it in gear
9 initially, it would stall starting out.

10 Q. Are you talking about putting it in
11 forward?

12 A. Yes.

13 Q. And then once you got it started again,
14 was there any problem going into any other gear other
15 than forward?

16 A. There probably would be going back in
17 reverse.

18 Q. Did you experience, when putting it in
19 reverse, any type of stalling problems? Again, this
20 is after you got it back from the marina and before
21 Ramsey used it.

22 A. I would avoid putting it in reverse
23 knowing that something wasn't right with it.

24 Q. You had indicated that you had